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C O N F I D E N T I A L SECTION 01 OF 03 MOSCOW 001226

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TAGS: PREL PGOV PHUM KDEM RS  
SUBJECT: RUSSIAN PUBLIC TUNES OUT KHODORKOVSKIY

REF: MOSCOW 1123

Classified By: Pol Minister Counselor Alice Wells for reason 1.4 (d)

¶1. (C) Summary: The Khodorkovskiy/Lebedev trial resumed on May 12 after a two-week hiatus. A Levada Center poll released on the same day showed that only a third of the Russians polled were aware that the trial was taking place. Of those paying attention, most believed that the GOR will pressure the court to deliver a guilty verdict. Media contacts pointed to widespread apathy and cynicism discouraging members of the public from seeking information about the case. The trial continued with more reading from the prosecution and more protests from the defense, largely unheeded. Defense complaints notwithstanding, legal contacts expressed the opinion that the trial is proceeding fairly and transparently, and that the GOR is treading carefully to avoid exacerbating their Yukos problems in foreign courts. Nonetheless, nearly all commentators predict a guilty verdict after a lengthy trial. On the evening of May 12, the opposition movement Solidarity joined members of the defense team for a protest in the center of Moscow, during which three young men with shaved heads attacked the protesters, with no serious injuries. End summary.

Widespread apathy: What Khodorkovskiy trial?  
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¶2. (C) A Levada Center poll released on May 12, the same day that the Khodorkovskiy/Lebedev trial resumed after a two-week hiatus (reftel), showed that only a third of the Russians polled were aware that the trial was taking place. The poll, which questioned 1600 Russians in 128 population centers in 48 regions of the country from April 24-27, also found that 66 percent did not understand the charges, while only 20 percent believed that this second trial was based on newly discovered evidence. Of those paying attention to the trial, cynical views of the process emerged; by 32 percent to 18, the respondents believed that the GOR will pressure the court to deliver a guilty verdict. Levada Director Lev Gudkov shared this prevailing view, telling us privately on May 5 that he had attended the trial himself, and based on his observations, he "strongly doubted the judge's independence."

¶3. (C) Oleg Panfilov, Director of the Center for Journalism in Extreme Situations, told us May 13 that while the results of this poll were distressing, he did not find them surprising. Noting that to date there had been scant coverage of the case on television, he pointed out that most Russians obtain their information from television, and that television news often avoids controversial subjects. He also pointed to widespread apathy and apolitical attitudes among the average population of the country. "There's no need for censorship in Russia," he explained, "because people here don't know what (press) freedom is in the first place." He alluded to the "information war" over the August 2008 conflict in Georgia as another example where "Russians only know the party line, if anything."

¶4. (C) Although criticism of the GOR and its handling of the Khodorkovskiy case are common in moderately liberal print media, Panfilov estimated that only five percent of the Russian population reads these liberal publications regularly. He added that the situation with the Internet is no better, because although the number of users is rapidly growing -- some estimates now place the percentage of Russians with Internet access at 33 percent -- most use it for apolitical purposes. "Anyone who wants this information (about the Khodorkovskiy case) can get it," he said. However, most Russians use the Internet only for entertainment or commerce. He noted that if one examines the number of "hits" on politically informative websites such as gazeta.ru, or opposition websites such as grani.ru, one sees that very same five percent representing the marginalized liberal elite.

Yukos trial resumes; prosecution reads; defense complains

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¶5. (SBU) On May 12, the Khodorkovskiy/Lebedev trial resumed with the prosecution continuing its mind-numbing reading of the charges against the defendants. According to observers present at the trial, the readers were barely audible, and when the public complained about this, they read even more quietly. At the trial, Khodorkovskiy raised points designed to poke holes in the prosecution's narrative; for example, he noted that no GOR agency had moved to freeze the assets that were purchased with allegedly "stolen" oil, which belied the prosecution's claims of illegal action on his part. He also claimed that some of the prosecution's own documentary evidence showed that former Yukos daughter company Eastern

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Oil was subjected to "raider" attacks at the time when Khodorkovskiy swapped its stock, thus justifying this allegedly illegal action. He concluded that the court was being manipulated, pointed to a number of procedural mistakes, and attacked Judge Danilkin for his refusal to submit Khodorkovskiy's and Lebedev's appeal to the Court of Appeal/Cassation.

¶6. (C) Khodorkovskiy lawyer Vadim Klyuvgant told us May 13 that the trial was a "farce," with prosecutors simply reading the documents with no explanation, and no defense motions accepted. He called prosecutors "unprofessional" and "aggressive," and asserted that the trial was simply "legalization of someone's vendetta." However, he also said that the GOR "is no longer really running the case," as "it has developed a life of its own."

Defense complaints aside, trial proceeds fairly

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¶7. (C) Notwithstanding these objections, some impartial observers feel that the trial is proceeding in a legally acceptable manner. Reporting on the trial's proceedings on May 12, independent website News.ru described Khodorkovskiy's objections, but noted that the reason for the two-week reprieve was a request by the defense for extra time to study the court proceedings to date in order to determine if there were grounds for objection. Khodorkovskiy was given free rein to make a number of points on May 12, and well-known opposition figures have consistently gained entrance to the court to join the spectators; the latest of these on May 12 were Novaya Gazeta editor Dmitry Muratov and National Bolshevik leader Edward Limonov.

¶8. (C) An American lawyer who has been retained by the International Bar Association to monitor the Khodorkovskiy trial, told us May 8 that he believed the trial was being run fairly and transparently. He acknowledged that the defense had lost many motions, but said that this is normal in a criminal case. He added that the judge "seemed to be bending over backwards" to give Khodorkovskiy and Lebedev a fair trial, to the point of "letting their lawyers ramble on far

"too long," rather than shutting them down and moving the trial along. He also said that the prosecutors were behaving professionally and respectfully toward the defense, and that the contrast between the prosecution and defense teams seemed to be "like David and Goliath," i.e., the defense had spent huge amounts of money to hire a legal dream team and the prosecution team was severely understaffed. Declining to offer an opinion on the substance of the charges or the likely outcome, he said that he anticipated that the trial will go on for several months.

¶9. (C) Vladimir Gladyshev, a Russian lawyer with a specialty in tax litigation, who has testified as an expert witness in almost all of the Yukos cases around the world (though not in the current criminal case), told us May 8 that the trial was being handled much more "gently" than the first case. He explained that this was because Cleary, Gottlieb -- the U.S. law firm that represents the GOR in all of the international civil litigation relating to Yukos -- had convinced Medvedev's Presidential Administration that if it did not curb some of the most blatant excesses, then arbitrators in Stockholm, judges in the U.S., and other decision-making bodies outside of Russia, would be much more likely to enter large civil judgments against Russia in foreign litigations. He said that this was why the government had not harassed the Yukos lawyers as in the first case, and why the case was being held in Moscow, rather than Chita (where prosecutors had long fought to hold the trial). He also said that the government had underestimated interest in the case internationally and among high-profile liberals, and thought that they could hold the trial in Moscow, and could claim to the world that they were being open and transparent, and that no one would come or care. Notwithstanding these points, he said that there would definitely be a guilty verdict because all of the key legal issues had already been decided in previous prosecutions, and he predicted that the judge would simply rely on those as a binding precedent.

¶10. (C) While the GOR has avoided harassing the defense lawyers, the conflict has nonetheless spilled into the street. On the evening of May 12, Lebedev lawyer Yelena Liptser (daughter of well-known human rights activist Lev Ponomarev), along with other members of the defense with members of the opposition Solidarity movement, led a protest near the Chistiye Prudi metro station. Although the protest was officially sanctioned, three young men with shaved heads, carrying chains wound around their fists, attacked the group. Ekho Moskvy radio reported that none of the protesters were seriously injured, although one was bleeding from a wound on his face. The Ekho Moskvy correspondent reporting on the

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incident told News.ru that he spoke with police and learned that only half of those assigned to protect the protesters had shown up. Olga Shorina of Solidarity complained that when protesters appealed to the police to help them during the attack, one of them answered, "This is your fault, and you have enough people here to defend yourselves." The protesters did succeed in apprehending two of the attackers and turning them over to the police.

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